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March 22, 2004

Delbert Rigsby, Esq
Office of the General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 5413

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
2004 MAR 22 P 4:55

Dear Mr. Rigsby:

The undersigned represents respondents Democratic Party of Wisconsin Federal Account ("DPW"), and Robert Fryst, as Treasurer in the above referenced Matter Under Review. In this matter, the Commission has found reason to believe that the DPW has violated 2 U.S.C. §§ 432(c)(5) & (d) and 11 C.F.R. § 102.9(d) in connection with recordkeeping errors it had made during the 2000 election cycle. By this letter, the DPW wishes to respond to the Commission's finding and offer of pre-probable cause conciliation.

During the Commission audit of the DPW, the Commission found relatively few items wrong with the DPW's financial activities. Ultimately, the Commission's audit had 3 relatively small findings and the DPW's financial activities for the 2000 cycle were found to be, for all intents and purposes, in compliance with the Federal Election Campaign Act. Furthermore, during the audit process, DPW staff were fully cooperative with Commission staff and made every attempt to satisfy every request for information made by Audit staff. Of course, DPW staff were under the impression from Commission Audit staff that the Audit went very well and the issues raised in the Audit were very minor.

One issue that was raised during the Audit (which is the subject of this matter) was the lack of documentation for certain disbursements as required by 11 C.F.R. 102.9(b)(2). According to the Audit Division report 11% of disbursements did not have the requisite documentation. Although the FECA and regulations only apply to disbursements in excess of \$200, it is not clear from the report as to whether the 11% number only included disbursements in excess of \$200. The Audit Division finding also included a recommendation that documentation be provided for six media

disbursements that totaled \$660,677. Generally, the banks that serviced the DPW did not provide the DPW with the original cancelled checks with monthly bank statements.

In response to this finding, the DPW contacted the banks in order to obtain the requested information. The banks informed the DPW that it would cost \$6.00 per cancelled check. Since it was believed that there were over 800 checks for which the Audit Division was requesting documentation, the DPW determined that to comply with the Commission's request may cost the DPW approximately \$5,000. The DPW was obviously concerned about the prohibitive costs of obtaining these documents and sought guidance from Philomena Brooks of the Commission's Audit staff as to whether it was necessary to obtain those documents due to the high cost of obtaining those documents.

Tom Klement, Comptroller of the DPW, was the primary contact for the DPW with regards to the Audit. Mr. Klement spoke with Ms. Brooks regarding this issue. As a result of their conversation, Mr. Klement was under the clear impression that if he focused on obtaining the documentation for the six wires that were part of the Commission's finding that the DPW will have materially complied with the Commission's finding. This impression was again established in subsequent conversations that included DPW Executive Director, Kim Warkentin.

Based upon this understanding, the DPW responded to the Finding 2 of the Commission's Interim Audit Report as follows:

Attached are copies of cancelled checks #'s 8731,8254 and 8876 as well as copies of the wire detail of three wires (Attachment # 17-22). As discussed with Philomena Brooks, to order cancelled checks on the minor expenditures would be cost prohibitive. Most of the missing documentation was for staff travel per diem and U.S.postage.

Letter of March 17, 2003 from Kim Warkentin to Joseph F. Stoltz, Resonse to Interim Audit Report (Attached as Exhibit to Declaration of Kim Warkentin).

Thus, Ms. Warkentin's letter of March 17, 2003 confirms both Ms. Warkentin's and Mr. Klement's understanding that the only documentation that would be required in order to comply with the Commission record keeping finding would be to provide the documentation for the large media disbursements (See attached Declaration of Tom Klement and Kim Warkentin). Specifically, both Mr. Klement and Ms. Warkentin recall that once Ms. Brooks was informed of the costs of full compliance with obtaining the cancelled checks, that they should focus on the six large media disbursements. It was clearly Mr. Klement's and Ms. Warkentin's impression that due to the cost of obtaining the cancelled checks, it would be unnecessary, and that submitting the documentation for the six media expenditures would constitute material compliance with the Commission's Finding 2 for record keeping.

Within three weeks of the DPW's response to the Interim Audit report, the Commission issued the Final Audit report in this matter. Contrary to the representations made by Ms. Brooks, the Final Audit Report did not reflect that the DPW had materially complied with Finding 2 and its recommendations but rather found that "[the] DPW failed to provide any documentation to resolve the record keeping errors identified by our sample."

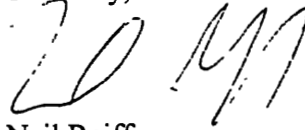
The DPW was surprised by the wording of the report based upon their understanding that by supplying the records for the media disbursements would constitute material compliance with the recommendation. Based upon this language, the DPW immediately requested 188 cancelled checks from the bank and resent documentation that was available for other disbursements that was available to the Commission during the Audit to provide documentation for other disbursements. The DPW believes that by May 2003, the party had supplied the Audit Division with all of the documentation requested as part of the Finding in the Interim Audit Report. In addition to numerous hours of staff time and shipping costs, the DPW paid approximately 600 dollars in bank fees for the cancelled checks in May 2003.

The Commission's Audit Report shows a committee that was in material compliance with the law, and their conduct during the Audit shows a cooperative committee that was fully prepared to comply with any and all recommendations of the Commission.

The Commission's approach in both the Final Audit Report as well as their approach to this enforcement matter is patently unfair, based upon both the reliance of the DPW on the representations of its Audit Division, as well as the failure to account for its efforts to comply with the Commission's recommendation once it realized that the Commission had not taken those representations into account in the Final Audit Report. Therefore, the DPW does not believe that this matter should have been pursued by the Commission at all.

If you would like to discuss this matter further, please contact me at (202) 479-1111.

Sincerely,

A handwritten signature in black ink, appearing to read "Neil Reiff". The signature is stylized with a large, looped "N" and a cursive "R".

Neil Reiff
Counsel for the Democratic Party of
Wisconsin, and Robert Fryst, as Treasurer

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FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

2004 MAR 22 P 4: 56'

**BEFORE THE
FEDERAL ELECTION COMMISSION**

IN RE
Democratic Party of Wisconsin Federal Account
and
Robert Fryst as Treasurer

MUR 5413

DECLARATION OF KIM WARKENTIN

1. On February 1, 2003 I became the Executive Director of the Democratic Party of Wisconsin ("DPW"). As the Executive Director I am responsible for the day-to-day operations of the DPW and oversee all staff of the DPW, including compliance and accounting staff.

2. Upon my arrival at the DPW, the committee received the Interim Audit Report of the Audit Division for an Audit that was conducted by the Federal Election Commission ("FEC") in connection with the 2000 election cycle. I did not participate in either the initial Commission fieldwork or Exit Conference.

3. One of the Findings in the Interim Report related to recordkeeping issues for disbursements by the DPW (Finding 2). The Finding consisted of two separate issues. First, the Finding concluded that 11% of DPW disbursements lacked documentation, including invoices, receipted bills or cancelled checks. Second, the Finding requested documentation for six wire transfers totaling \$660,667.

4. During the preparation of the DPW's response to the Interim Audit Report the DPW determined that most of the affected disbursements were for staff per diem and postage, which would ordinarily not require any type of bill or receipt. Furthermore, during the 2000 election cycle, the DPW did not receive cancelled checks from M&I Bank and US Bank, formerly First Starr for these transactions.

5. During the preparation of the DPW's response to the Audit Report, the DPW contacted the bank to request copies of the cancelled checks that had been identified by the Audit Division. The DPW was informed that the bank would charge \$6.00 per cancelled check and that the total cost for the project would be approximately \$5,100.

6. The DPW was concerned about the cost of compliance with the Audit Division recommendation and contacted the Audit Division for guidance. During February and March of 2003 Tom Klement, DPW Comptroller and I contacted Philomena Brooks, our primary contact at the Commission's Audit Division. During conversations with Ms. Brooks during the preparation of our response to the Interim Audit Report, the DPW expressed our concerns about the cost of responding to the finding regarding recordkeeping. In response to our concerns, Ms. Brooks advised our committee to focus on the six separate disbursements that were also part of Finding 2. Based upon our conversation, I had the clear impression that if documentation for the six large disbursements were provided that the Audit Division would not require that the other cancelled checks be provided in order to materially comply with the report's finding.

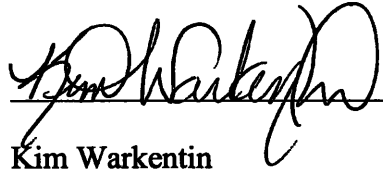
7. As a result of Ms. Brooks' representation, the DPW sought and obtained the documentation for the six wire transfers but did not provide the Audit Division with the other cancelled checks. In the DPW written response to the Interim Audit Report (Attached as Exhibit A), my impression of our conversation with Ms. Brooks is memorialized. With respect to Finding 2, I wrote "As discussed with Philomena Brooks, to order cancelled checks on the minor expenditures would be cost prohibitive. Most of the documentation was for staff travel per diem and U.S. Postage." Consequently, the DPW did not obtain or forward the cancelled checks at that time.

8. As demonstrated by full cooperation with all other requests in the audit, the DPW was committed to fully comply with all aspects of the Commission's audit. But for Ms. Brooks' representation, the DPW would have made every effort to comply with all of the recommendations in Finding 2 regardless of financial cost.

9. To be sure, subsequent to responding to the Interim Audit Report, the DPW became concerned with Ms. Brooks representations and decided to obtain the missing cancelled checks. In May 2003, the DPW was able to obtain those cancelled checks and supply those checks to the Commission. Ultimately, the DPW was able to negotiate with the banks and the cost to the DPW for obtaining those cancelled checks was approximately \$600.

9. As a result of the Audit, the DPW now obtains, on a monthly basis, cancelled checks for all disbursements to ensure full compliance with Commission regulations.

I declare under penalties of perjury that the foregoing is true and correct to the best of my present knowledge, information and belief. Dated this 19th day of March, 2004.



Kim Warkentin



Democratic Party of Wisconsin

222 STATE STREET, SUITE 400, MADISON, WI 53703

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March 17, 2003

Joseph F. Stoltz
Assistant Staff Director
Audit Division
Federal Elections Commission
999 E. Street, N.W.
Washington, D.C. 20463

Dear Mr. Stoltz:

Enclosed please find the information requested in your audit letter dated 1/29/03. The responses to your findings and recommendations are detailed below.

Finding 1: Apparent Allocable Expenses Paid from a Non-Federal Account

The Audit division stated that the DPW made ten disbursements (\$362,712) from a non-federal account that appears to be for allocable expenses. The Audit staff recommends that the DPW provide documentation to demonstrate that these are not allocable expenditures, or amend its reports to disclose these disbursements as allocable expenses see pages 6 of 6.

Below are our responses to these items.

1. Global Strategies provided polling exclusively for the State Assembly races in Wisconsin. The check notations list Global Strategies for the ADCC which is the Assembly Democratic Campaign Committee. We have talked to the 2000 State Chair, Terri Spring and the Executive Director of the Democratic Party of Wisconsin Tom Young who have verified that the work that Global Strategies did was exclusively for the State Assembly races. We have enclosed a copy of an invoice for \$4,000 for State Assembly polling. Please see the check notation for polling ADCC for check number 3827, copies of invoices for check numbers 3779 and 3827 have been requested and are pending.
2. Cooper & Secrest Associates Inc. provided polling for the State Senate races in Wisconsin. Attached are invoices for two senate districts- Senate District 10 and Senate District 30. Please note that the invoices are addressed to Andy Gussert who was the head of the State Senate Campaign Committee in 2000.

3. Bates Neimand did ads for the State Assembly in 2000. The budget sheet attached has the candidate column highlighted; all of names in this column were Democratic candidates for the State Assembly in the year 2000.
4. Buyline Media Inc. We have not been able to track down documentation regarding the wire transfer for Buyline Media Inc. we could not find any listings. Although we believe this expenditure was non-federal in nature we've attached a corrected memo schedule H-4 to amend the state entries to federal.
5. Abella Audio did 8 radio ads for State Assembly races in the following Assembly Districts: 1, 34, 36, 86. -please see the attached invoices.
6. AMS Communications-An amended H-4 is attached for this expenditure.

Finding 2: Recordkeeping for Disbursements

The DPW lacked documentation, such as invoices, receipted bills or canceled checks, for approximately 11% of operating expenditures tested in our sample. In addition, a separate review indicated the DPW did not maintain such documentation for six disbursements made to two vendors amounting to \$660,677. The Audit staff recommends that the DPW obtain the requisite documentation and provide it for our review, see pages 4 of 6. Attached are copies of cancelled checks #'s 8731, 8254 and 8876 as well as copies of the wire detail for the three wires (Attachment #17-22). As discussed with Philomena Brooks, to order cancelled checks on the minor expenditures would be cost prohibitive. Most of the missing documentation was for staff travel per diem and U.S. postage.

The Democratic Party of Wisconsin is reinstating procedures to receive all cancelled checks.

Finding 3. Disclosure of Receipts and Disbursements

Attached is the amended pages sent directly to Maureen Benitz at FEC Reports and Analysis to amend the following:

- The DPW did not disclose addresses for 15 contributions, totaling \$281,250, from other political committees see pages 2 of 6. Address disclosures requested are corrected and amended pages are attached and numbered #7-16.
- The DPW did not disclose a complete address and/or the correct aggregate year-to-date total for 16 offsets to operating expenditures (refunds, rebates, etc), which totaled \$14,647 see pages 1 of 6. Address disclosures and aggregate corrections are amended on pages attached and number #1-6.

- The DPW did not disclose the complete address or the correct vendor name for 15 disbursements that totaled \$1,237,019-see pages 5 of 6. Address disclosures and correct vendor names are amended on the attached disclosure pages and numbered #1 of 22.

If we can provide further information regarding this audit- please contact Kim Warkentin or Tom Klement at 608-255-5172.

Sincerely,



Kimberly Warkentin
Executive Director

**BEFORE THE
FEDERAL ELECTION COMMISSION**

IN RE)	
Democratic Party of Wisconsin Federal Account)	
)	
and)	MUR 5413
)	
Robert Fryst as Treasurer)	
)	

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COMMISSION
OFFICE OF GENERAL
COUNSEL

2004 MAR 22 P 4: 55

DECLARATION OF TOM KLEMENT

1. From August 1997 through December 2003 I served as comptroller of the Democratic Party of Wisconsin ("DPW"). I held this position on a part-time basis. As comptroller I was responsible for the day-to-day financial transactions of the DPW, including the issuance of disbursements, recordkeeping and bank reconciliations. I also served as the primary contact for the DPW in connection with the Commission's Audit of the DPW for the 2000 election cycle.

2. In my capacity as Comptroller, I was responsible for compiling documents to comply with the Findings of the Interim Audit Report of the DPW was received by the DPW in early February of 2003.

3. One of the Findings in the Interim Report related to recordkeeping issues for disbursements by the DPW (Finding 2). The Finding consisted of two separate issues. First, the Finding concluded that 11% of DPW disbursements lacked documentation, including invoices, receipted bills or cancelled checks. Second, the Finding requested documentation for six disbursements totaling \$660,667.

4. During the preparation of the DPW's response to the Interim Audit Report the DPW determined that most of the affected disbursements for the 11% of the sample reviewed by the Commission were for staff per diem and postage, which would ordinarily not require any type of invoice, bill or receipt. Furthermore, during the 2000 election cycle, the DPW did not receive cancelled checks from US Bank, formerly First Star and M&I Bank for these transactions.

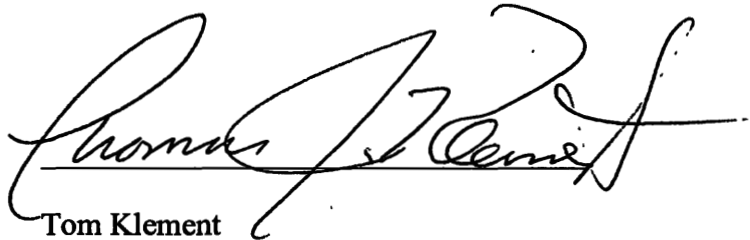
5. During the preparation of the DPW's response to the Audit Report, I contacted the banks to request copies of the cancelled checks that had been identified by the Audit Division. I was informed that the banks would charge \$6.00 per cancelled check and that the total cost for the project would be approximately \$5,100.

6. The DPW was concerned about the cost of compliance with the Audit Division recommendation and contacted the Audit Division for guidance. During February and March of 2003 Kim Warkentin, DPW Executive Director, and I contacted Philomena Brooks, our primary contact at the Commission's Audit Division. During conversations with Ms. Brooks in preparation of our response to the Interim Audit Report, the DPW expressed its concerns about the cost of compliance with this finding. In response to our concerns, Ms. Brooks advised our committee to focus on the six wire transfers that were also part of Finding 2. Based upon our conversation, I had the clear impression that if documentation for the six wires was provided that the Audit Division would not require that the cancelled checks be forwarded in order to materially comply with the Audit Division Finding.

7. As a result of Ms. Brooks' representation, the DPW sought and obtained the documentation for the six wire transfers but did not request or provide the Audit Division with the cancelled checks.

8. Shortly after the DPW response to the Interim Audit Report, the DPW requested the missing cancelled checks from both banks. In May of 2003, the DPW requested the missing checks and transmitted them to the Commission at an approximate cost of \$600 as well as sending original invoices for a majority of the disbursements of over \$200.00.

I declare under penalties of perjury that the foregoing is true and correct to the best of my present knowledge, information and belief. Dated this 19th day of March, 2004.



Tom Klement